

ATTACHMENT #5

CRB11NAL RECORD CHECK INFORMATION

Attachment #5 is information supplemental to that included in s.48.57(3p) regarding the criminal background check process, the individuals on whom criminal background checks must be conducted, the offenses which would prohibit approval of a payment, confidentiality of records and the establishment of fees to cover the cost of the criminal background check.

CRIMINAL RECORD CHECKS FOR KINSHIP CARE

Criminal record checks must be conducted on the Kinship Care relative, any employees or prospective employees of the relative who will have regular contact with the child, and any other adult resident of the relative's home. For purposes of this criminal record check, an adult resident is defined as a person 18 years of age or over who lives in the home of a relative who has applied for or is receiving a Kinship Care payment with the intent of making that home his or her home or who lives for more than 30 days cumulative in any six month period at the home of a person who has applied for or is receiving a Kinship Care payment. [Ref. s.48.57(3p)(a), Stats.]

1. Individuals Subject to a Background Check

The background investigation shall be conducted by the county or tribal department, with the assistance of the Department of Justice, after receipt of an application for a Kinship Care payment. In addition, the county or tribe may conduct such a background check at the time of the 12-month review or at any other time that the county or tribe considers to be appropriate. Before a relative employs an individual who would have regular contact with the child, the county or tribal agency must conduct the background check on that individual. [Ref. s.48.57(3p)(b)1. and 2. and (c)1., 2. and 3.]

If the relative, employee of the relative or adult resident of the relative's home is a non-resident of the State of Wisconsin or was such a nonresident at any time within the 5 years preceding the Kinship Care payment application, or if the county or tribe determines that the person's employment, licensing or state court records provide a reasonable basis for further investigation, the county or tribal agency shall require the person to be photographed and fingerprinted on two fingerprint cards, each bearing a complete set of fingerprints. The Department of Justice may provide for the submission of the fingerprint cards to the FBI to verify the identity of the individual and to obtain records of his or her criminal arrest and conviction. [Ref. s.48.57(3p)(d)]

2. Information to be Provided

Upon request, any person subject to a background check shall provide to the county or tribal agency all of the following:

- (a) The person's name.
- (b) The person's social security number.
- (c) Other identifying information, including the person's birth date, gender, race and any identifying physical characteristics.
- (d) Information regarding the person's conviction record under the laws of this or any other state or federal law. This information is to be provided

on a notarized background verification form that the Department will provide by rule. [Ref. s.48.57(3p)(e)]

3. Provisional Approval

The county or tribal agency may provisionally approve a Kinship Care payment based on the applicant's statement that he or she has no arrests or convictions that could adversely affect the child or the relative's ability to care for the child. The county or tribe may not, however, give final approval to the payment until the results of the criminal record check have been received from the Department of Justice and meet the requirements identified below.

Similarly, a person receiving a Kinship Care payment may provisionally hire an employee or provisionally allow an individual to be an adult resident of the home pending the outcome of a successful criminal background check, but may not finally hire the person or allow the person to be an adult resident until the results of the criminal background check are received and are acceptable. (Ref. s.48.57(3p)(fm)l. and 2.)

4. Kinship Care Payments Prohibited

A Kinship Care payment may not be made to a relative if the relative, an employee of the relative or any adult resident of the relative's home has a criminal background that indicates that:

- (a) The person has been convicted of a violation under Ch. 961, Stats., that is punishable as a felony or the law of another state or a federal law that would be a violation under Ch. 961 that is punishable as a felony if committed in this state.
- (b) The person has had imposed on him or her a penalty under any of the following:
 - (1) S.939.62 Increased penalty for habitual criminality
 - (2) S.939.621 Increased penalty for certain domestic abuse offenses
 - (3) 5.939.63 Penalties: use of a dangerous weapon
 - (4) 5.939.64 Penalties: use of bulletproof garment
 - (5) S.939.641 Penalty: concealing identity
 - (6) 5.939.645 Penalty: crimes committed against certain people or property

This also applies if the person was convicted of a violation of the law of any other state or federal law under circumstances under which the

person would be subject to a penalty specified in any of the above sections if convicted in this state.

- (c) The person has been convicted of a violation of Chs. 940 (Crimes Against Life and Bodily Security), 944 (Crimes Against Sexual Morality) or 948 (Crimes Against Children), except for violations of the following:

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| (1) | S.940.291 | Law enforcement officer; failure to render aid |
| (2) | S.940.34 | Duty to aid victim or report crime |
| (3) | S.944.36 | Solicitation of drinks prohibited |
| (4) | S.948.45 | Contributing to truancy |
| (5) | S.948.63 | Receiving property from a child |
| (6) | S.948.70 | Tattooing of children |

This prohibition similarly applies if a person was convicted of violating the law in any other state or federal law that would be a violation of any of the above, with the same exceptions. [Ref. s.48.57(3p)(g)]

5. Exceptions

Notwithstanding the above prohibitions and if other eligibility requirements are met, a Kinship Care payment may be made to a relative if the relative, an employe of the relative or other adult resident of the relative's home was convicted in this state (or convicted of the violation of the law of any other state or federal law) of any of the following and that conviction occurred 20 or more years before the background investigation:

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| (a) | S.944.30 | Prostitution |
| (b) | S.944.31 | Patronizing prostitutes |
| (c) | S.944.33 | Pandering |

[Ref. s.48.57(3p)(g)3.]

6. Confidentiality

The county or tribal agency must keep confidential any information received from the Department of Justice or the FBI as the result of a criminal background check. This information is not subject to inspection or copying under s.19.35, Stats. [Ref. s.48.57(3p)(i)]

7. Fees

A county or tribal department may charge a fee for conducting the background investigation. The fee may not exceed the reasonable cost of conducting the investigation. [Ref. s.48.57(3p)(j)]